



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/878,802	06/11/2001	Gad Friedman	LUZZATTO-086	3752

7590 04/13/2004  
LERNER, DAVID, LITTENBERG,  
KRUMHOLZ & MENTLIK, LLP  
600 SOUTH AVENUE WEST  
WESTFIELD, NJ 07090-1497

EXAMINER

METZMAIER, DANIEL S

ART UNIT PAPER NUMBER

1712

DATE MAILED: 04/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

### Application No.

09/878,802

### Applicant(s)

FRIEDMAN ET AL.

### Examiner

Daniel S. Metzmaier

### Art Unit

1712

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 20 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 28-31 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 30 and 31 is/are rejected.
- 7) ☒ Claim(s) 28 and 29 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

Claims 28-31 are pending. Claims 1-27 have been canceled.

#### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on January 20, 2004 has been entered.

#### ***Claim Objections***

2. Claims 28-29 are objected to because of the following informalities: the claims, ie., at least the first occurrence of "PBBMA" should be defined in the claim as -- pentabromobenzyl acrylate denoted as PBBMA - -.

Appropriate correction is required.

#### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 30 and 31 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed,

had possession of the claimed invention. Claim 30 sets forth preparing a suspension of anti-foaming or defoaming compound by grinding to the desired particle size.

No grinding of an "anti-foaming or defoaming compound" is set forth in the original disclosure. Please see page 3, paragraph [022]). More specifically, the anti-foaming or defoaming agents are set forth as emulsions, which are a liquid/liquid system, rather than the solid liquid PBBMA and the fire-retardant compound exemplified as antimony oxide. This is new matter added to the claims.

***Allowable Subject Matter***

5. Claims 28-29 are allowed.
6. The following is a statement of reasons for the indication of allowable subject matter: attention is directed to paragraph 10 of the last Official Office Action.
7. The following are acceptable changes to the claims, which would obviate the above objection and rejection but need to be checked for correspondence with previous amendment to the claims. Basis for the claim 30-33 amendments are found in paragraph [0022] on page 3 of the original specification.

Art Unit: 1712

1-27. (Canceled)

28. (Currently amended) A process for the preparation of an aqueous suspension of pentabromobenzyl acrylate denoted as PBBMA, comprising the steps of: preparing a suspension of PBBMA by grinding said PBBMA to a desired particle size, in water containing wetting agents; preparing a suspension of a fire- retardant compound by grinding said fire-retardant compound to a desired particle size, in water containing wetting agents; adding said suspension of said fire-retardant compound to a slowly mixed suspension of PBBMA; mixing said suspension of said fire- retardant compound and said slowly mixed suspension of PBBMA until a homogenous, mixed suspension is obtained.

29. (Previously presented) A process according to claim 28, further comprising adding a preserving agent to said suspension of PBBMA.

30. (Currently amended) A process according to claim 28, further comprising the ~~preparation of a suspension of an anti-foaming defoaming compound by grinding said anti-foaming or defoaming compound to the desired particle size, in water containing wetting agents, and then mixing said aqueous suspension of PBBMA with said suspension of said anti-foaming or defoaming compound~~ agents.

31. (Currently amended) A process according to claim 30, where ~~said suspension of said anti-foaming or defoaming compound~~ agents are added to a slowly mixed suspension of PBBMA, and mixing until homogeneous, mixed suspension is obtained.

Art Unit: 1712

32. (New) A process according to claim 30, wherein the anti-foaming or defoaming agents are selected from the group consisting of emulsions of mineral oils, emulsions of natural oils, and emulsions of silicon oils.

33. (New) A process according to claim 32, wherein the anti-foaming or defoaming agents are an emulsion of silicon oils.

***Response to Arguments***

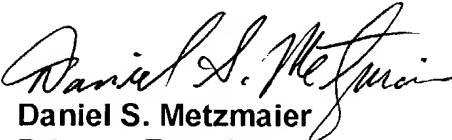
8. Applicant's arguments with respect to claims 28-31 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel S. Metzmaier whose telephone number is (703) 308-0451. The examiner can normally be reached on 9:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan can be reached on (571) 272-1119. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Daniel S. Metzmaier  
Primary Examiner  
Art Unit 1712

DSM